

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No. 8376 of 2004

Shri Laxman Hariba Sisal ..Petitioner

vs.

The Tahsildar, Miraj
and another ..Respondents

Shri R.V.More for petitioner.
Shri A.P.Vanarase, A.G.P. for respondent nos.
1 and 2.
Ms.Vaishali Jadhav, Tahsildar, Miraj present
in person.

CORAM: S.B.MHASE J.
17th March, 2006

P.C.

1. The order dated 4th August, 2004 passed by the IInd Joint Civil Judge, Sr.Dn., Sangli on application below Exh.27 in Reg.Civil Suit No.81 of 2000 is under challenge. This is an application to appoint the Commissioner for inspection of the site. By order dated 3rd November, 1999 Tahsildar has granted road through the land of the petitioner in exercise of power under section 143 of the Maharashtra Land Revenue Code. The said order dated 3rd November, 1999 was challenged by the plaintiff in the said Reg.Civil Suit No.81 of 2000. Section 143 gives power to the Tahsildar to grant road on a boundary line when there is no road or access provided to the persons who are

the applicants in the said matter. Now, the petitioner has approached this Court with a case that there is no such road through and/or on the bandh of the petitioner's land and there is an alternate road available to the villagers or persons claiming right through the land of the petitioner and for that purpose the petitioner wanted to have the local inspection to bring on record the fact of availability of alternate road. In fact this is not the collection of evidence but it is a matter of inspection for proper appreciation of evidence which will be brought on record. In the present case Shri Vanarase, A.G.P. appearing for respondents on instructions from the Tahsildar Ms.Vaishali Jadhav who is present in the Court makes a statement that he has no objection for the Commissioner being appointed. This court is satisfied on merit of the matter and even otherwise on the concession given by the respondents that the Commissioner is very much necessary and for that purpose the impugned order dated 4th August, 2004 is hereby quashed and set aside. Application below Exh.27 is allowed. Trial Court is directed to appoint an appropriate person or the Advocate practicing in the said Court, after hearing

both sides, as the Court Commissioner for
taking inspection of the site.

. Petition is disposed of accordingly.

(S.B.MHASE J.)